REMARKS

Applicants have carefully reviewed the Office Action dated June 21, 2005, prior to filing this Amendment. Although there appears to be an inconsistency between the Office Action Summary and the substantive rejections in the Office Action regarding the status of the claims, Applicants believe claims 1-4, 6-12, 14, 16-18 and 30-32 are pending in the application, wherein claims 1, 4, 6-11, 16-17 and 30 are rejected, claims 2-3, 12, 14 and 31-32 are objected to as depending from a rejected base claim, and claim 18 is presently allowed. Clarification is respectfully requested if this supposition is incorrect. Claims 1, 18, 30 and 32 have been amended and new claims 33-39 have been added with this paper.

Claims 1, 4, 6-9, 14, 16, 17 and 30 stand rejected under 35 U.S.C. §102(b) as being anticipated by Phan et al. (U.S. Patent No. 5,192,286). Applicants respectfully traverse this rejection.

In the Office Action the Examiner asserts "[c]laims 1, 4, 6-9, 14, 16, 17 and 30 are rejected under 35 U.S.C. §102(b) as being anticipated by Phan et al. (5,192,286)." See Office Action, paragraph 3. Claim 14 is later stated as objected to as depending from a rejected base claim and "[n]one of the prior art of record, alone or in combination, discloses an embolus extractor ... where the first and second struts are movable independently of each other." See Office Action, paragraph 8. Applicants respectfully believe the inclusion of claim 14 in the rejection is in error and withdrawal of the rejection regarding claim 14 is respectfully requested. Applicants respectfully assert Phan fails to anticipate claim 14.

Claim 1 has been amended to more clearly describe the claimed invention. As currently claimed, the embolus extractor of claim 1 includes first and second struts, each strut having a proximal end coupled to the distal end of the shaft and a distal end coupled to the distal end of the shaft. Applicants respectfully assert Phan fails to teach at least this limitation of claim 1, therefore fails to anticipate the claim.

The Examiner asserts the pull wire 18 of Phan teaches an elongate shaft and the fibers or threads of the slack net 26 teach the first and second struts as currently claimed in claim 1. Notwithstanding the Applicants' disagreement with the Examiner's analysis of Phan as teaching first and second struts, Phan nevertheless fails to anticipate claim 1. Applicants assert that not only must the prior art reference include every element of the claimed invention in order to anticipate, but the invention must be shown in as complete detail as is contained in the claim and the elements must be arranged with all the structural limitations provided in the claim. See *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913 (Fed. Cir. 1989); *Lindemann Maschinenfabrik v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984). Phan fails to satisfy such an evaluation.

As currently claimed, the proximal end and the distal end of each strut are rotatably coupled to the distal end of the elongate shaft. The slack net 26 of Phan appears to extend from the pull wire 18 to the flexible loop member 28. At most, only one end of each fiber of the slack net 26 taught in Phan may be coupled to the pull wire 18. Through an assessment of Figures 1-3C, the opposite end of each fiber of the slack net 26 appears to be attached to the flexible loop member 28. Flexible loop member 28 is an additional, independent element taught in Phan dissimilar from the pull wire 18. Therefore, it

appears that the elements of Phan are not arranged with all of the structural limitations of claim 1, thus Phan fails to anticipate the claimed invention. For at least this reason, claim 1 is believed to be in condition for allowance.

Claims 4, 6-9, 14 and 16-17 depend from claim 1 and add significant additional elements. For at least the reasons stated above regarding the allowability of claim 1, these claims are likewise believed currently allowable. Withdrawal of the rejection is respectfully requested.

Claim 30 has been amended to include the limitations of claim 32. Claim 32 was objected to as being dependent upon a rejected base claim, but otherwise was indicated as allowable. Therefore, Applicants believe claim 30, as currently amended, is in condition for allowance.

Claims 10 and 11 are rejected under 35 U.S.C. §103(a) as being unpatentable over Phan et al. in view of Oslund et al. (6,740,061). Applicants respectfully traverse this rejection. Claims 10 and 11 depend from claim 1. Claim 1 is believed allowable for at least the reasons stated above; therefore, claims 10 and 11 are correspondingly believed to be in condition for allowance.

Claims 2, 3, 12, 14, 31 and 32 are objected to as being dependent upon a rejected base claim. Applicants thank the Examiner for the favorable consideration of these claims.

Claims 2, 3, 12 and 14 depend from claim 1. For at least the reasons stated above regarding the allowability of claim 1, these claims are similarly believed to be in condition for allowance.

Claim 31 depends from claim 30. For at least the reasons stated above regarding the allowability of claim 30, this claim is similarly believed to be in condition for allowance.

Claim 32 has been rewritten in independent form. Claim 32, as amended, includes limitations of previous claim 31, which was indicated as containing allowable subject matter in the Office Action. Therefore, claim 32 is currently believed to be in condition for allowance.

Claims 33-39, which depend from claim 18, have been added with this amendment. Claim 18 has been indicated by the Examiner as being allowable. Therefore, claims 33-39 are likewise believed currently allowable over the prior art.

Reexamination and reconsideration is respectfully requested. It is submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney.

Respectfully submitted,

MEHRAN BASHIRI ET AL.

By their Attorney,

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Glenn M. Seager, Reg. No. 36,926
CROMPTON, SEAGER & TUFTE, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis, Minnesota 55403-2420
Tel: (612) 677-9050

